

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:  <b>NIEHOUSE CLEANERS &amp; DRAPERIES, INC. dba JERRY'S CLEANERS</b>  Marshall County, Iowa	ADMINISTRATIVE CONSENT ORDER  NO. 2014-AQ-
---	---

TO: Jerry Snitselaar, Registered Agent  
Niehouse Cleaners & Draperies, Inc.  
210 West Madison  
Marshalltown, IA 50158

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Niehouse Cleaners & Draperies, Inc. dba Jerry's Cleaners (Niehouse) for the purpose of resolving the air quality violations which occurred at the Niehouse facility in Marshalltown, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**  
Bill Gross, Environmental Specialist Senior  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 200  
Windsor Heights, Iowa 50324  
Phone: 515/725-0271

**Relating to legal requirements:**  
Kelli Book, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Windsor Heights, Iowa 50324  
Phone: 515/725-9572

**Payment of penalty to:**  
Iowa Department of Natural Resources  
Henry A. Wallace Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

Pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: NIEHOUSE CLEANERS & DRAPERIES, INC. dba JERRY'S CLEANERS

quality), and the rules promulgated or permits issued pursuant to that part and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties, DNR has jurisdiction to issue this administrative consent order.

### III. STATEMENT OF FACTS

1. Niehouse is a clothing and drapery cleaning operation located at 210 West Madison in Marshalltown, Iowa. Jerry Snitselaar purchased the facility in January 2004. The facility uses perchloroethylene (perc) as the cleaning solvent. The facility has two dry cleaning machines. The Union machine has been at the facility for ten years and the A'dina machine was installed in January 2014.

2. On February 9, 2004, Bill Gross, DNR Field Office 5 environmental specialist senior, conducted an inspection of the Niehouse facility. At the time of the inspection, the Union machine had just been purchased, but was not operational yet. Based on the size and perc usage of the new machine the facility was classified as a new large area source for the National Emission Standards for Hazardous Air Pollutants (NESHAP) for dry cleaners (Subpart M Sec. 63.322). The facility was required to resubmit the initial notification, compliance for pollution prevention, and compliance for control equipment reports. The facility was also reminded to comply with the operating, monitoring, and record keeping requirements. The documents were submitted on April 30, 2004.

3. On February 11, 2009, Mr. Gross conducted an inspection at the Niehouse facility. Based on the perc usage the facility was classified as a small area source. Mr. Gross determined that the facility failed to submit the compliance report due in 2008 for new small area sources and new large area sources. Mr. Gross also noted that the facility was not in compliance with some of the pollution prevention requirements including the following: the diverter valve at the door was in need of repair, the machine operating manuals were not available; perc waste was stored in an open container; and the drums were not properly labeled. Additionally, Mr. Gross discovered noncompliance with some of the control equipment monitoring and recording requirements including the following: the operating manual was not available to check on the acceptable condenser pressure; and the condenser outlet temperature was higher than the maximum acceptable temperature. Additional noncompliance issues were discovered with the inspection and maintenance requirements including the following: records were only available for half of the year; the facility noted a leaking gasket; monitoring records were not available to determine how long the condenser outlet temperature was higher than the standard; and the vapor detector was not being used to conduct leak inspections. On February 20, 2009, DNR issued a Notice of Violation letter to the facility for the violations that Mr. Gross discovered during his February 2009 inspection. The letter required a written response to DNR by March 20, 2009 as to how the facility would address these violations. The facility did not submit a written response.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: NIEHOUSE CLEANERS & DRAPERIES, INC. dba JERRY'S CLEANERS

4. On October 23, 2009, Mr. Gross met with Mr. Snitselaar to discuss the February 2009 inspection. Mr. Snitselaar stated that the compliance report had been submitted, but the field office did not receive it. Mr. Gross requested that the report be submitted again. The drums of liquids were being stored outside with lids, but were not sealed. The labels were worn. The facility was not using acceptable vapor detector for leak monitoring and was not recording the results when the detector was used. The operating manual for the equipment was available, the equipment had been repaired, and the operation records were being recorded. On October 26, 2009, DNR sent Mr. Snitselaar a letter with a summary of the visit. The letter stated that the compliance report was to be submitted to DNR Field Office 5; the starting date of waste storage for each drum needed to be placed on its labels; the drums should be sealed and stored in a secured area; and the leak monitoring must be done and recorded monthly. The letter stated that Mr. Gross would check on the compliance status of the facility at a later date.

5. On May 20, 2011, Mr. Gross conducted an inspection at the Niehouse facility. Based on the perc usage the facility was classified as a large area source. Mr. Gross noted that the perc waste materials were being stored indoors and were not in containers. The hazardous waste labels were not on the storage drums at the time of the inspection. Mr. Snitselaar reported the labels were later attached on June 6, 2011. Mr. Gross also noted that the carbon filter, leak detectors, and the vapor detector were not working properly. Mr. Gross also noted that the facility was not maintaining all necessary records. On June 9, 2011, DNR sent the facility a Notice of Violation letter for the violations discovered during the field office inspection.

6. On February 28, 2013, Mr. Gross conducted an inspection at the Niehouse facility. Based on the perc usage the facility was classified as a small area source. Mr. Gross noted that the carbon filter was not in place and not controlling vapors when the machine doors were opened. Mr. Gross also noted that perc waste material was sitting in an open area and not properly contained. The facility was not recording the use of the vapor monitor. On March 11, 2013, DNR sent the facility a Notice of Violation letter for the violations discovered during the field office inspection.

7. On February 27, 2014, Mr. Gross conducted an inspection at the Niehouse facility. Based on the perc usage the facility was classified as a large area source. The A'dina machine had just been installed, but at the time of the inspection neither of the machines was operating. Mr. Gross noted an open 5 gallon bucket of perc that had been drained from one of the machines while it was being worked on. Mr. Snitselaar poured the perc back into the machine when Mr. Gross asked him to cover the bucket. Mr. Gross also noted that the carbon filter was not in place on one of the machines. The facility used the vapor monitor to check the new machine when Mr. Gross was present and the alarm went off several times. Mr. Gross also noted that the facility was not recording the use of the vapor monitor. On March 27, 2014, DNR sent the facility a Notice of Violation letter for the violations discovered during the field office inspection.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: NIEHOUSE CLEANERS & DRAPERIES, INC. dba JERRY'S CLEANERS

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. Iowa Code section 455B.133 provides for the Commission to establish rules governing the quality of air and emission standards. Pursuant to Iowa Code section 455B.133, 567 IAC 23.1(4)(m) was established, which adopts by reference the federal regulations regarding perc air emission standards for dry cleaning facilities. The United States Environmental Protection Agency has delegated to the State of Iowa the authority to implement and enforce the federal NESHAPs, found at 40 CFR part 63, subpart M.

3. 40 CFR 63.322(j) provides that all perc and perc containing material must be stored in containers with no perceptible leaks. DNR Field Office 5 made several visits to the Niehouse facility and noted that perc and perc containing wastes were found in open containers and odors were noticed in the building. The facts in this case indicate violations of this provision.

4. 40 CFR 63.322(m) states that equipment must be maintained and repairs must be made within 24 hours or within 5 days if a part must be ordered. DNR Field Office 5 made several visits to the Niehouse facility and noted that equipment was not being maintained and leaks were detected during the inspections. The above facts indicate violations of this provision.

5. 40 CFR 63.322(e)(1) stated that perc must not be released to the atmosphere when the machines are in operation. DNR Field Office 5 made several visits to the Niehouse facility and noted leaks during most of the inspections. On one occasion, one of the machines was in operation even though the carbon filter housing had broken off and vapors were being released. The above facts indicate violations of this provision.

6. 40 CFR 63.324 required that operation and maintenance records must be kept. DNR Field Office 5 made several visits to the Niehouse facility and the records, especially of leak inspections and repairs, were frequently deficient. The above facts indicate violations of this provision.

**V. ORDER**

THEREFORE, it is hereby ordered and Niehouse agrees to do the following:

1. Niehouse shall operate equipment at all times in a manner which minimizes emissions;

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: NIEHOUSE CLEANERS & DRAPERIES, INC. dba JERRY'S CLEANERS

2. Niehouse shall at all times store perc and perc-containing material in sealed containers;
3. Niehouse shall at all times comply with leak monitoring requirements and make repairs in a timely manner;
4. Niehouse shall at all times maintain the required records of purchases, inspections, monitoring, and repairs of the dry cleaning equipment; and
5. Niehouse shall pay a penalty of \$3,000.00 in accordance with the following payment plan:

\$500.00 due August 15, 2014	\$500.00 due November 15, 2014
\$500.00 due September 15, 2014	\$500.00 due December 15, 2014
\$500.00 due October 15, 2014	\$500.00 due January 15, 2015

If any of the payments are not received in accordance with the payment plan the remaining portion of the penalty shall be due immediately.

## VI. PENALTY

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a \$3,000.00 penalty. The administrative penalty assessed by this administrative consent order is determined as follows:

Economic Benefit - 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that "where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit." 567 IAC 10.2(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available." Niehouse avoided the costs associated with properly maintaining the equipment, properly storing perc material, and keeping proper records. The estimated economic benefit from these avoided costs is \$500.00 and that amount is assessed for this factor.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: NIEHOUSE CLEANERS & DRAPERIES, INC. dba JERRY'S CLEANERS

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. Failure to properly control vapor emissions poses a long term health risk for personnel exposed. The violations threaten the integrity of the regulatory program because compliance with the regulations is required of all persons in this state. Therefore, \$1,500.00 is assessed for this factor.


Culpability – Niehouse has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Over the course of 10 years the facility has been issued Notice of Violation letters for the violations cited in this administrative consent order. The facility has been informed on numerous occasions of the regulations for the operation of the facility. Therefore, \$1,000.00 is assessed for this factor.

**VII. WAIVER OF APPEAL RIGHTS**

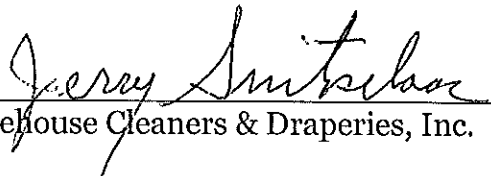
This administrative consent order is entered into knowingly and with the consent of Niehouse. For that reason, Niehouse waives the rights to appeal this administrative consent order or any part thereof.

**VIII. NONCOMPLIANCE**

Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative consent order. Failure to comply with this administrative consent order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code sections 455B.146.

  
\_\_\_\_\_  
CHUCK GIPP, DIRECTOR  
Iowa Department of Natural Resources

Dated this 8<sup>th</sup> day of  
September, 2014.

  
\_\_\_\_\_  
Niehouse Cleaners & Draperies, Inc.

Dated this 25<sup>th</sup> day of  
August, 2014.

Kelli Book; DNR Field Office 5; EPA; VII.C.3